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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

In re W.R. et al., Persons Coming
Under the Juvenile Court Law.

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

W.R.,

Defendant and Appellant.

B292121, B294990

(Los Angeles County
Super. Ct. No. 18LJJP00452A-C)

APPEALS from orders of the Superior Court of Los Angeles
County, Karin Borzakian, Juvenile Court Referee. Affirmed.

Jacques Alexander Love, under appointment by the Court of
Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles,
Assistant County Counsel, and Jacklyn K. Louie, Principal Deputy
County Counsel, for Plaintiff and Respondent.

* * * * *

Father W.R. appeals the juvenile court's jurisdictional findings, dispositional orders, and subsequent order removing his then six-, eight-, and 13-year-old sons based upon the adjudication of a supplemental petition pursuant to Welfare and Institutions Code section 387.¹ We find substantial evidence supports the court's jurisdictional findings, and the dispositional orders are within the juvenile court's discretion. Also, because the children have been returned to father, we find his appeal from the adjudication of the supplemental petition is moot, and in any event, fails on its merits. We therefore affirm.

FACTUAL AND PROCEDURAL BACKGROUND

This family came to the attention of the Los Angeles County Department of Children and Family Services (Department) on June 22, 2018, after the Department received a referral of a domestic violence incident between father and his girlfriend, O.E. Father's sons, all with the initials W.R. (we will refer to them by their respective ages to avoid confusion) were in the home, as was father's infant son with O.E. (P.R., who is the subject of a related dependency appeal (Aug 2, 2019, B293713) [nonpub. opn.]), and O.E.'s daughter from a previous relationship.

Father and O.E. argued, and O.E. punched father in the face and scratched him. Father's eight-year-old son witnessed the incident, and his 13-year-old son called police. O.E. was arrested, but father refused an emergency protective order. O.E. and father did not live together at the time. They shared custody of P.R., and O.E. spent the night at father's home several nights per week.

This was not the first domestic violence incident between father and O.E. The Department received a report that father

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

knocked O.E. to the ground on May 18, and that O.E. sprained her wrist. P.R. and O.E.'s daughter were present. According to O.E., she and father were arguing, father pushed her, and she lost her balance and fell. She told the social worker father had pushed her once before. But she told police there had been five unreported incidents of domestic violence between her and father. Father denied he pushed O.E.

Father told the Department social worker he had diagnoses for Bipolar Disorder and Schizophrenia. He was prescribed Seroquel, but only takes it "when needed." He also was prescribed Hydrocodone for a jaw injury.

Father admitted to multiple domestic violence incidents where O.E. was the aggressor, but denied ever hitting O.E. He told the Department he was no longer in a relationship with O.E., but allows her to be in his home to coparent their child, P.R. Father admitted O.E. punched him in the face in the June incident, causing his lip to bleed.

During the June incident, father woke up his three sons as he and O.E. were arguing "so they could see what was going on." After O.E. punched father in the face, he told his 13-year-old son to call police.

Father's eight-year-old son admitted to seeing O.E. punch father in the mouth. He had seen father "push [O.E.] around when they are mad." He admitted "it happen[s] a lot."

Father's six-year-old son denied witnessing the incident, but overheard father and O.E. screaming, and learned that O.E. had punched father "and broke his mouth." He told the Department investigator he sometimes saw father push O.E.

Father's 13-year-old heard arguing and screaming, so he called 911. He had called 911 in the past to report other incidents of domestic violence.

Father has sole legal and physical custody of the boys. Their mother, S.M., has not been involved in their lives for years. Mother had two arrests for domestic violence while she and father were in a relationship.

On June 13, 2018, father tested positive for Hydrocodone at a level of 15,258 ng/ml, which was over five times the cut-off level. A June 25, 2018 test was negative for all substances.

The family has a history with the Department. The Department received a referral in 2010 that father and mother S.M. were arguing, and that mother stabbed herself. There were also numerous referrals in 2013 related to father's drug use and sales, gang activity, weapons in the home, and two domestic violence incidents, one where father was a perpetrator and one where he was the victim. The 2013 domestic violence incidents were witnessed by the W.R. children and a half sibling, and father refused an emergency protective order, and did not want his then-girlfriend prosecuted. There was also a 2016 referral where father was arrested for domestic violence after he slapped an ex-girlfriend in front of her children.

Father has an extensive criminal history, spanning 1992 to 2016, with numerous arrests for robbery (with multiple sustained juvenile petitions), vehicle theft (with one sustained petition), an arrest for receiving stolen property, a conviction for being a gang member carrying a loaded firearm in a public place (for which father served time in prison after violating his probation); numerous other drug sale, gun, and gang-related arrests, some resulting in convictions for which father did time in prison, and arrests for other offenses such as vandalism, assault, and parole violations. Father was also arrested for domestic violence in 2011 and 2016.

On July 19, 2018, the Department filed a dependency petition with allegations under subdivisions (a) and (b) of section 300, based on domestic violence between father and O.E. At the July 19, 2018 detention hearing, the court found father to be the presumed father, and ordered the children to remain released to father under the supervision of the Department.

Following the detention hearing, father became evasive and did not respond to the Department's efforts to interview him and the children. He eventually agreed to meet with the Department on August 1, 2018. Father told the Department he did not need a restraining order because O.E. is a "sweet girl" and is not a threat to him or his children. He stated that "maybe [he] deserve[d]" being hit by O.E. Regarding the May domestic violence incident, father admitted he pushed O.E. "to get her off of me." Regarding the June incident, he admitted that both his eight-year-old son and infant P.R. witnessed the incident.

Father admitted to using drugs such as ecstasy and cocaine when he was young, but had quit using them. He was diagnosed with Schizophrenia and Bipolar Disorder in 2014 or 2015, and was prescribed Seroquel. Father stopped taking the medication in 2016 because it made him drowsy, although he was currently experiencing mental health symptoms such as paranoia. Following the Department's involvement with the family, father made an appointment with the Department of Mental Health for an evaluation.

Father takes Hydrocodone for injuries he received two years earlier during a robbery. He generally takes it as prescribed, one tablet three times a day, but sometimes does not take it at all. However, father admitted he self-medicates his mental health problems with his pain medication, and sometimes abuses his medication.

On August 16, 2018, the Department filed a first amended petition, adding allegations that father abused his prescription medication, and has a history of mental health problems but failed to take his psychotropic medication.

On June 25, 2018, O.E. pled no contest to one count of disturbing the peace, was placed on probation, and was ordered to participate in a domestic violence program. That same day, the court issued a criminal protective order protecting father from O.E. for a period of three years, and personally served the order upon O.E. The order required that O.E. have “no personal, electronic, telephonic, or written contact” with father. It also required her to stay 100 yards away from father.

The adjudication/disposition hearing was held on August 16, 2018. The juvenile court sustained the following allegation under subdivision (b) of section 300: “ The children[’s] . . . father and the father’s female companion . . . engaged in physical and verbal altercations while the children were present in the home. In May 2018, the father pushed the father’s female companion, causing the companion to fall backwards and injure her wrist. In June 2018, the female companion struck the father’s face inflicting bleeding to the father’s mouth, in the presence of the children. The father also has . . . unresolved mental health issues including a diagnosis of Schizophrenia and Bipolar Disorder which periodically makes father incapable of providing regular care to the children. Father has not taken psychotropic medications as prescribed despite father reporting that he still displays mental health symptoms. On June 13, 2018, father had a positive test result of hydrocodone, at a level of 15,258 ng/ml. The father’s actions, and his failure to protect the children from the female companion, place the children at substantial risk of harm.”

The children were placed with father, under the supervision of the Department. Father was ordered to participate in family maintenance services, including random and on demand drug testing, a full drug program if he tested positive or missed a test (for drugs other than his prescription medications at the proper dosage), a domestic violence support group, parenting classes, an Evidence Code section 730 evaluation, individual counseling, and to take all prescribed psychotropic medications.

Father filed a notice of appeal, and the appeal was assigned case No. B292121.

On October 10, 2018, the Department filed a supplemental petition pursuant to section 387, alleging father violated the criminal protective order by having contact with O.E., and that the previous dispositional orders were not sufficient to protect the children.

The Department received reports that father and O.E. were in contact in violation of the criminal protective order, and that father was driving O.E. to her domestic violence classes. On September 22, 2018, O.E. was discovered at father's home during an unannounced home visit. Father initially lied to the social worker and denied O.E. was in the home, but eventually admitted she was there. Father told the social worker there were no problems between them, and that he never wanted a restraining order.

The children were removed on October 4, 2018. That same day, father and O.E. went together to Department offices to bring the boys their belongings, in violation of the criminal protective order. Father admitted he wanted to continue his relationship with O.E. The children told the Department that O.E. had come to their home several times before they were detained.

On October 9, 2018, the criminal protective order was modified by the criminal court to remove the “no contact” provisions.

At the October 10, 2018 detention hearing, the children were detained in foster care, and father’s visitation was ordered to be monitored. The juvenile court stated it had issued a stay away order requiring father and O.E. to have no contact, and that father and O.E. had violated both that order and the protective order issued in O.E.’s criminal case. The court acknowledged that the criminal protective order had since been modified to allow contact between father and O.E., but nevertheless ordered that its own stay away order shall remain in full force and effect.

When father spoke with the Department on October 24, he said he had not had any contact with O.E. following the October 10 hearing. He admitted having contact with O.E. in September. He claimed he was not aware of the juvenile court’s stay away order, or the criminal protective order.² Nevertheless, he was currently abiding by the orders so he could have the children returned to him. Father told the Department he wanted to continue his relationship with O.E.

New concerns about the children were emerging. Father’s 13-year-old son was generally well behaved and respectful, but was very nervous when answering simple questions. He also had been suspended in August 2017 and January 2018 for violent

² There is no stay away order in the record on this appeal. However, the record in father’s appeal concerning P.R. (B293713, *supra*) reveals that the juvenile court issued a “no contact order” between father and O.E. in that case on June 27, 2018, and ordered that the parties abide by the criminal protective order. Father was present at the hearing when these orders were made.

altercations with other students at school. The eight-year-old had significant behavioral problems at school, including violent outbursts. The school had been attempting to secure services for him since 2014, but father would not consent, and was “belligerent” during conversations with school staff. The six-year-old also appeared to have anger issues, and father refused to have him assessed for mental health services, and was belligerent and uncooperative with school officials. The child was sent to the principal’s office daily, and was often out of control. The school stopped contacting father because he was so uncooperative and unsupportive.

Father reported he was enrolled in domestic violence and anger management classes, and that he had started monthly mental health counseling, but was unable to provide the Department with any documentation confirming his enrollment and participation.

The adjudication hearing on the supplemental petition was held on October 31, 2018. According to father’s counsel, father had been participating in services, “is fine with all the recommended services as the report indicates,” and had completed a section 730 evaluation.

The juvenile court sustained the petition, and removed the children from father. The court ordered father to participate in the same services previously ordered, plus abide by all terms of the criminal protective order and juvenile court stay away order. The court gave the Department discretion to release the children to father.

Father filed a timely notice of appeal, which was assigned a case No. B294990. We ordered father's two appeals consolidated.³

On May 1, 2019, while father's appeals were pending, the children were returned to his care under the supervision of the Department.

DISCUSSION

1. Jurisdictional and Dispositional Orders

Father contends the findings under section 300, subdivision (b) are unsupported, and that his domestic violence, mental health, and substance abuse problems were no longer a threat to the children at the time of the jurisdictional hearing because father was protected by a criminal protective order, had reengaged in mental health services, and was testing negative for all substances. We are not persuaded.

It is well settled that the failure to protect a child from the substantial risk of encountering domestic violence supports jurisdiction under section 300, subdivision (b). (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 598-599; *In re Heather A.* (1996) 52 Cal.App.4th 183, 194.) Substantial evidence supports the court's exercise of jurisdiction here. (See *In re Cole C.* (2009) 174 Cal.App.4th 900, 916 [discussing substantial evidence standard of review].) Father has an extensive history of domestic violence with multiple partners, and was at times a victim, and at times a perpetrator. All three children had witnessed acts of domestic

³ In January 2019, we sent the parties a Government Code section 68081 letter asking whether the filing of the section 387 petition rendered the first appeal moot. We consolidated the cases, and find the appeal of the court's jurisdictional and dispositional orders is not rendered moot by the filing of the supplemental petition.

violence, and the oldest child had intervened more than once by calling police. The juvenile court need not wait until a child is seriously injured to assume jurisdiction. (*In re T.V.* (2013) 217 Cal.App.4th 126, 133.)

We need not reach the merits of father's challenge to the remaining jurisdictional findings. Where one basis for jurisdiction is supported by substantial evidence, an appellate court need not consider the sufficiency of evidence to support other bases. (*Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72; see also *In re Jonathan B.* (1992) 5 Cal.App.4th 873, 875 ["[A] reviewing court may affirm a juvenile court judgment if the evidence supports the decision on any one of several grounds."].) Nevertheless, the facts summarized above are substantial evidence that support the other jurisdictional findings.

Father challenges the court's dispositional orders, arguing they are too burdensome. Dispositional orders must be designed to offer services to remedy the specific problems that led to the loss of parental custody. The orders need not, however, be limited to those conditions. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1008.) If "the court is aware of other deficiencies that impede the parent's ability to reunify with his child, the court may address them in the reunification plan." (*Ibid.*) The juvenile court's broad discretion to fashion dispositional orders includes discretion to address any known deficiencies harmful to the well-being of a child, even if they are not related to the specific reasons which brought the child before the court. (*Ibid.*) We will not reverse a juvenile court's determination of an appropriate disposition absent a clear abuse of discretion. (*Id.* at p. 1006; *In re Sergio C.* (1999) 70 Cal.App.4th 957, 960.)

Given the longstanding problems with domestic violence, father's abuse of prescription medication, and untreated mental

health problems, the court's orders are well within its broad discretion. Moreover, at the hearing on the section 387 petition, father told the court he was "fine with all of the recommended services" in his case plan. Therefore, he has forfeited any appellate challenge to these orders. (*In re A.A.* (2012) 203 Cal.App.4th 597, 606.)

2. Supplemental Petition

Father challenges the removal of the children from his care pursuant to the supplemental petition, arguing there is no substantial evidence his violation of the court's orders placed the children at risk of harm. The Department has moved to dismiss this portion of the appeal, arguing it is moot because the children have been returned to father's care. Father asks us to reach the merits of his appeal, arguing he could somehow be prejudiced by the erroneous findings.

We agree with the Department that father's appeal from the sustaining of the supplemental petition is moot.

The children have been returned to father, so reversing the court's section 387 orders would provide no effective relief. (*In re Dani R.* (2001) 89 Cal.App.4th 402, 404 [" '[A]n action that originally was based on a justiciable controversy cannot be maintained on appeal if all the questions have become moot by subsequent acts or events. A reversal in such a case would be without practical effect, and the appeal will therefore be dismissed.' [Citation.]"]; see also *In re Michelle M.* (1992) 8 Cal.App.4th 326, 329-330.) Also, given our finding that jurisdiction was proper, *ante*, the children will remain dependents of the court based on those findings irrespective of the sustaining of the supplemental petition. Therefore, we can discern no conceivable prejudice to father.

And, in any event, the findings are supported by substantial evidence. (*In re T.W.* (2013) 214 Cal.App.4th 1154, 1163.)

DISPOSITION

The orders are affirmed.

GRIMES, J.

WE CONCUR:

BIGELOW, P. J.

WILEY, J.